## REMARKS

Claims 1-5, 7-9 and 26-35 remain for consideration. Claims 31-35 were withdrawn from consideration in view of a restriction requirement. Claim 6 is canceled without prejudice. Claim 1 was amended to more particularly point out Applicants' claimed invention. Features of claim 6 have been incorporated into claim 1. The amendment of claim 1 is supported by the specification, for example, at page 34, lines 4-10. No new matter is introduced by the amendments.

Applicants respectfully request reconsideration of the rejection of the pending claims.

### Restriction Requirement

The Examiner indicated that newly added claims 31-35 are directed to an invention that is independent or distinct from the invention originally filed. Accordingly, the Examiner withdrew claims 31-35 from further consideration. Applicants note that claims 31-35 depend from pending claim 1. Applicants respectfully request reconsideration of the withdrawal of claims 31-35.

"If the search and examination of an entire application can be made without serious burden, **the examiner must examine it on its merits**, even though it includes claims to independent or distinct inventions." MPEP §803. Thus, the presence of a distinct invention is only one criteria relevant to the imposition of a restriction. In this case, the relevant claims are dependent on the claims under consideration. Therefore, the patentability of the claims are interlinked. Applicants do not believe that it would require any additional effort to examine claims 31-35 in view of their dependence on claim 1.

Applicants respectfully request examination of claims 31-35.

### Rejections Under 35 U.S.C. §102(b)

The Examiner rejected claims 1-9 and 25-30 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 5,770,113 to Iga et al. (the Iga patent). The Examiner cited the Iga patent for disclosing

varistors formed from zinc oxide particles having an average diameter from about 0.05 micrometers to about 10 micrometers. Applicants respectfully request reconsideration of the rejections based on the following comments.

The Iga patent discloses the formation of varistors incorporating zinc oxide and other powders. In describing the production of the varistors, the Iga patent discloses the desirability of using a blend of powders having an average particle size of 0.05 to 10 microns. Column 10, lines 30-35. Following the blending of zinc oxide with other materials, the mixture is sintered to produce controlled particle growth. Column 9, line 58 to column 10, line 13. The Iga patent does not disclose a method producing zinc oxide or a source of zinc oxide. In the Examples, the zinc oxide has an average particle size of 300 nm, more than 3 times the largest average particle size in Applicants' claims. Column 12, line 41.

Applicants have amended claim 1 to indicate that the particles have a narrow distribution of particle sizes. The Iga patent does not disclose the uniformity of the zinc oxide particles or a source of particles having the claimed narrow distribution of particle sizes. Since the Iga patent does not disclose zinc oxide powders with the claimed narrow particle size distribution, the Iga patent does not anticipate Applicants' amended claims.

Applicants respectfully request withdrawal of the rejection of claims 1-9 and 25-30 under 35 U.S.C. §102(e) as being anticipated by the Iga patent.


## CONCLUSIONS

In view of the above amendments and remarks, Applicants submit that this application is in condition for allowance, and such action is respectfully requested. The Examiner is invited to telephone the undersigned attorney if the Examiner has any questions or comments.

The Director of the Patent and Trademark Office is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: _Peter S. Dardi_

Peter S. Dardi, Ph.D., Reg. No. 39,650
Suite 1600 - International Centre
900 Second Avenue South
Minneapolis, Minnesota 55402-3319
Phone: (612) 334-3222  Fax: (612) 339-3312

PSD:nw